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A REPORT TO THE MINISTER OF EDUCATION ON

TEACHER — TRUSTEE BARGAINING

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TEACHER-TRUSTEE BARGAINING

A REPORT

TO

THE MINISTER OF EDUCATION

by

THE MINISTER'S ADVISORY COMMITTEE

ON

TEACHER CONTRACT BARGAINING

Regina, Saskatchewan

October, 1972

Prof. Jones Dept of Education, Sask

F O R E W O R D

No recommendation, no suggestion, no argument however persuasive, can be advanced in the Educational Forum without first testing its validity and its effect against the principle that our educational system exists for the child so that he may create, grow and perceive better the world within which he must live.

The arguments and recommendations contained in this study of the teacher collective bargaining arrangements in Saskatchewan are intended to reflect this principle. The implementation of the recommendations will, it is hoped, create the opportunity for teachers and trustees to provide more effectively for the educational needs and aspirations of the children and parents in the Saskatchewan community.

P R E F A C E

The Minister's Advisory Committee on Teacher Contract Bargaining was appointed by a Minister's Order dated March 27, 1972 and consisted of the following members:

Mr. D. G. McLeod, Q.C., Regina
Professor K. E. Norman, Saskatoon
Professor P.Y. Walmsley, Saskatoon
Mr. R.E. Clayton (Secretary), Regina
Dr. W.N. Toombs (Chairman), Regina

The Terms of Reference for the Committee as set out in the Order were as follows:

The Committee shall investigate all relevant matters concerning teacher-trustee bargaining including the following:

(a) The parties involved in teacher-trustee bargaining.

(b) Those matters which are the subject of the bargaining process.

(c) The area within which various aspects of the bargaining process should take place.

(d) Components of the bargaining process itself including an examination of negotiation, conciliation and arbitration proceedings.

(e) The implementation of the bargaining process including an examination of the time of year in which bargaining should take place and the relationship of such bargaining to other government functions such as budget deliberations, etc.

(f) The implementation of the results of the bargaining process including a study of systems approach to management of salary and related matters.

The Committee has now completed its study of the problem and respectfully submits the following report.

D.G. McLeod

R.E. Clayton (Secretary)

K. E. Norman,

W.N. Toombs (Chairman)

P.Y. Walmsley

Table of Contents

		page
	Foreword	ii
	Preface	iii
	List of Recommendations	vii
I	Introduction	1
	The Problem	1
II	Collective Bargaining	8
	The Process	8
	The Relationship	12
	In Saskatchewan Education	16
III	The Bargaining Area and the Participants	19
	The Bargaining Area	19
	Recommendation #1	21
	The Participants	21
	Recommendation #2	22
IV	The Process	23
	Recommendation #3	23
	Recommendation #4	25
	Recommendation #5	25
	Recommendation #6	25
	Recommendation #7	26
V	Bargaining Items	30
	Recommendation #8	30
	Recommendation #9	31
	Recommendation #10	32
	Recommendation #11	32

VI The Teacher Relations Board..... 33

Recommendation #12..... 33
Recommendation #13..... 34
Recommendation #14..... 35

VII Grievance Procedures..... 36

Recommendation #15..... 37
Recommendation #16..... 38
Recommendation #17..... 38

VIII Administrators..... 39

Recommendation #18..... 39

IX Pay Research Bureau..... 41

Recommendation #19..... 41

X The Teacher Relations Act..... 42

The Teacher Relations Board..... 46
Process for Resolution of a Dispute..... 51
Arbitration Board..... 52
Conciliation Board..... 56
Grievance Procedure..... 60

LIST OF RECOMMENDATIONS

THE BARGAINING AREA AND THE PARTICIPANTS

Recommendation #1

That collective bargaining on negotiable items referred to in Section V of this report take place at a single provincial level and that area bargaining as it presently exists be abolished and that The Teacher Salary Agreements Act be repealed.

Recommendation #2

That the exclusive bargaining agents be The Saskatchewan Teachers' Federation representing teachers and The Saskatchewan School Trustees Association representing all school boards.

THE PROCESS

Recommendation #3

That all collective agreements be for a term of two years beginning on Januray 1 of the first year and terminating on December 31 of the second year, but remaining in force until a new collective agreement is concluded.

Recommendation #4

That prior to commencement of collective bargaining which shall be on August 1 of the year in which a collective agreement terminates, The Saskatchewan Teachers' Federation be required to select one of two procedures for settlement or resolution of any disagreement or dispute; such choice to be communicated by The Saskatchewan Teachers' Federation to the Chairman of The Teacher Relations Board who, in turn, will notify The Saskatchewan School Trustees Association. The alternatives are as follows:

A. Negotiations during which either party may request arbitration if the parties are unable to conclude a collective agreement; such request for arbitration to be made to The Teacher Relations Board. During negotiations either party may request the assistance of a mediation team appointed by the chairman of The Teacher Relations Board.

B. Negotiations during which either party may request The Teacher Relations Board for a Board of Conciliation. The Board of Conciliation would hear evidence and representations in respect of the issue or issues in dispute and make a report and no suspension of or interference with educational services would be permitted until the parties have received a copy of the report.

Recommendation #5

That the Board of Arbitration be composed of a member appointed by The Saskatchewan Teachers' Federation, a member appointed by The Saskatchewan School Trustees Association and a Chairman agreed to by such members. Failing agreement, a Chairman shall be appointed by the Chairman of The Teacher Relations Board.

Recommendation #6

That the Board of Conciliation shall be composed of a member appointed by The Saskatchewan Teachers' Federation, a member appointed by The Saskatchewan School Trustees Association and a Chairman agreed to by such members. Failing agreement, a Chairman shall be appointed by the Chairman of The Teacher Relations Board.

Recommendation #7

That the team of mediators be two persons appointed by the Chairman of The Teacher Relations Board.

BARGAINING ITEMS

Recommendation #8

That The Saskatchewan Teachers' Federation and The Saskatchewan School Trustees Association bargain collectively with respect to the following items:

1) salaries including the system of salary determination and the schedule of increments
2) employment security, dismissal and grievance procedures
3) leaves of absence
4) supervisory allowances
5) such other matters as the parties may agree to negotiate or which failing agreement are approved for negotiation by The Teacher Relations Board prior to the commencement of any negotiation period.

Recommendation #9

That Sections 237, 238 and 239 of The School Act, Sections 65, 66 and 67 of The Secondary Education Act and The Teacher Tenure Act be repealed, such repeal to come into effect on a date proclaimed by the Lieutenant Governor in Council

Recommendation #10

That upon approval of the request of either party or on its own motion, The Teacher Relations Board recommend to the Minister the repeal or amendment of any additional legislation or regulation necessary to permit additional matters to be negotiated.

Recommendation #11

That applicable terms and conditions set out in a collective bargaining agreement be incorporated into the contract of employment of the individual teacher.

THE TEACHER RELATIONS BOARD

Recommendation #12

That a Teacher Relations Board be established, the members of which shall be appointed by the Lieutenant Governor in Council as follows:

1. two members named by The Saskatchewan School Trustees Association,
2. two members named by The Saskatchewan Teachers' Federation,
3. a chairman named by agreement by the said members; or failing agreement named by the Lieutenant Governor in Council,
4. the term of appointment of members will be four years except that the initial appointment of one member named by The Saskatchewan Teachers' Federation and of one member named by The Saskatchewan School Trustees Association shall be limited to two years.

Recommendation #13

That the duties and responsibilities of The Teacher Relations Board include:

1. general supervision of the collective bargaining system;
2. hearing appeals respecting grievances;
3. determining negotiable matters;

4. determining applications regarding the exclusion of principals, vice-principals, and other teachers from collective bargaining;

5. the duties and responsibilities of The Teacher Classification Board.

Recommendation #14

That the duties and responsibilities of the Chairman of The Teacher Relations Board include:

1. appointing teams of mediators when requested during the bargaining process;

2. appointing a Board of Arbitration or a Board of Conciliation when requested during the bargaining process;

3. appointing a Board of Arbitration to hear and determine grievances, one member to be nominated by The Saskatchewan Teachers' Federation, one member to be nominated by The Saskatchewan School Trustees Association and the Chairman named by agreement by the said members; or failing agreement named by the Chief Justice of Saskatchewan.

GRIEVANCE PROCEDURES

Recommendation #15

That any complaints or grievances with respect to disciplinary matters other than dismissal be resolved by negotiation between The Saskatchewan Teachers' Federation local and the employing board as follows:

1. The Saskatchewan Teachers' Federation shall file a complaint in writing with the principal.

2. If no settlement is reached with the principal, the complaint shall be placed before the superintendent or director of education.

3. If no settlement is reached with the superintendent or director of education or principal, the complaint shall be placed before the secretary of the employing board and the board at its next regular meeting shall hear and consider the complaint.

4. If no settlement is reached The Saskatchewan Teachers' Federation shall request the Chairman of The Teacher Relations Board for a Board of Arbitration and the Chairman shall establish a board.

5. Either party may appeal the award of the Arbitration Board to The Teacher Relations Board within fifteen days from the award and its decision will be final.

Recommendation #16

That a complaint or grievance involving the dismissal of a teacher be resolved by negotiation between The Saskatchewan Teachers' Federation and the employing board and failing settlement, may be referred to arbitration.

Recommendation #17

That a complaint or grievance with respect to the interpretation or application of a collective agreement or any alleged violation thereof be resolved by negotiation between The Saskatchewan Teachers' Federation and The Saskatchewan School Trustees Association and failing settlement, may be referred to arbitration.

ADMINISTRATORS

Recommendation #18

That The Teacher Relations Board may upon the application of any school board if satisfied that any principals, vice-principals, or other teachers are regularly exercising authority primarily of a managerial, supervisory and evaluative nature, and who regularly act in a confidential capacity with respect to teacher-board relations, by order exclude such principals, vice-principals or other teachers from the collective bargaining process.

PAY RESEARCH

Recommendation #19

That the establishment of a Provincial Pay Research Bureau which would provide data to teachers and trustees with respect to salary matters be investigated.

I.

INTRODUCTION

The Committee held a number of preliminary meetings to define the problem and to study a great variety of material which was presented to it. Of considerable assistance to the Committee was material made available to it by the Research, Planning and Development Branch of the Department of Education and by both The Saskatchewan Teachers' Federation and The Saskatchewan School Trustees Association. In addition the Committee was able to gather material from a variety of publications on the subject of collective bargaining and teacher-trustee relations as they relate to collective bargaining.

The Committee sought briefs from both The Saskatchewan Teachers' Federation and The Saskatchewan School Trustees Association and in addition held hearings with each of these groups.

The Committee also received correspondence from teachers and trustees in the province expressing points of view regarding collective bargaining.

The Problem

It is clear that the present situation with respect to teacher-trustee negotiations in the area bargaining units in the province of Saskatchewan has not been characterized by a great deal of success. While over the years and through the various chapters of the story of salary negotiations, teachers and trustees have continued to negotiate to some kind of conclusion, the

dislocations - the apparent deterioration in relationships and the "political" manoeuvring - have been so much a part of salary negotiations in this province that the process has produced many negative effects along with the positive one of settlement. Indeed, the emphasis within the bargaining process has shifted of late from the substance of bargaining to the process itself. An increasingly vigorous debate has developed on what the process should be rather than on the matters for negotiation.

The Committee therefore addressed itself to these kinds of questions:

1. What should be the design of a collective bargaining system that will foster improvement in Saskatchewan's educational system and give priority to the well-being of students within that system?

2. Recognizing the importance of teacher-trustee bargaining, is it not possible at the same time to create a situation in which such bargaining could be carried out so that it does not become a major annual confrontation? Is it not possible to create a collective bargaining situation in which less teacher-trustee time is devoted to this task and hence made available for the far more important task of carrying on the educational programs within the local educational jurisdictions in the province?

3. Is there a design for collective bargaining which would recognize local government in education and the role of the teacher? Should these two concepts be an important consideration for the Committee?

4. What is the role of the provincial government in collective bargaining? Should there be direct negotiations between teachers and the provincial government? Should the provincial government be involved at all in such bargaining?

5. How important is the need for change in the present situation concerning salary negotiations? Is there need for "sweeping" changes? Should there be only "patchwork" recommendations made concerning this problem?

The Committee throughout its deliberations arrived at several major points of reference on which its recommendations and its views are based.

1. Local Government in Education. The Committee has adopted the view that local government in education is an essential and critical aspect of the educational process in Saskatchewan. The Committee concurs with the following concept of local government which was presented to the Saskatchewan School Trustees Association in 1969 by The Saskatchewan School Trustees Research and Evaluation Committee:

> Local government in the Saskatchewan educational program is based on the deeply imbedded concept that each parent must have a voice in the education of his child. The fact that this voice is, today, one of a majority or minority in the community does not alter this primary parental right for decision. Nor is this parental prerogative altered when educational systems become bureaucratized, when the provincial or national demands on educational program content increase or when the expertise of the professional educator, the technician or the philosopher appears to shape objectives and program. If the choice is to be made, the democratically expressed wishes of the parent must predominate.
>
> In order to carry out his right - and responsibility - to educate his child, the parent has delegated authority

> to the provincial and local governments; he has invested economic resources in the provision of facilities, equipment and people; and he has allowed his child to be taught by teaching professionals and para-professionals. But the parent has retained the right to be represented in school affairs at the local level by the school trustee and at the provincial level by his representative in the legislature.
>
> The school board performs a unique function. It is responsible to the members of the community for an effective educational program for each child. It is responsible, too, to the government of the province which is the final authority for education in Canada. The uniqueness of this intermediate level of government stems from its role relative to the child. Unlike municipal councils, hospital boards or other agencies of local government, school boards have a role which affects the growth of the child, the community and the nation.[1]

Any collective agreement arrangement therefore must involve, in the Committee's view, trustees of fiscally responsible boards of education in the province. This means that the Committee cannot support the view that teachers should negotiate directly with the provincial government. On the other hand it is important that such negotiations between teachers and school boards as represented by their respective organizations take place at a level consistent with the realities of the power structures underlying the process.

The Committee is convinced, therefore, that by moving the adversary relationship which is inherent in collective bargaining to the provincial level, more cooperative and more productive relationships at the local level will be forthcoming. Teacher-board communication will not be fraught with the dislocations and

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[1] L.A. Riederer and W.N. Toombs, Report of The Saskatchewan School Trustees Association Research and Evaluation Committee on the Organization and Functioning of the Association, The Saskatchewan School Trustees Association, August 29, 1969.

distractions which collective bargaining generates; hence, school boards will have a greater opportunity to direct their efforts toward the development of other important programs and policies.

2. The Role of the Teacher. Members of the Minister's Committee have accepted the thesis that whatever policies and procedures are implemented regarding collective bargaining, such policies and procedures should reinforce and enhance the role of the teacher. For teachers to engage annually in collective bargaining in a multiplicity of administrative units in the province and to engage in "pressure" tactics at the local level militates against the status of the teacher in the community. The Committee feels that as long as collective bargaining appears as a major exercise (not to detract from the importance of the results) and as long as such bargaining takes place at the local level and as long as the only recourse which teachers have to exert presssure in the bargaining process is through some tactic which results in a reduction of educational service to the children - as long as these characteristics of a contract bargaining situation exist - the status and the role of teachers is damaged.

3. The Role of the Provincial Government. It is clear that the provincial government, through implicit or explicit communications, has had an influence on the parameters within which teacher salary increases have been determined. The Committee is convinced that such involvement by the provincial government need not take place, particularly when the government is philosophically committed to the principles of free collective bargaining. The

recommendations to follow are designed in large measure to facilitate the non-involvement of the Minister of Education and the provincial government.

The Committee has proposed measures which will result in a substantial strengthening of the negotiation process and feels that under the proposed procedures, decisions by the parties to the negotiations should be forthcoming most years before the Minister and/or the government might become involved, however reluctantly, in the negotiation process through such indirect activities as the provincial treasurer's budget speech and the final stages of budget reviews undertaken by the Department of Education. Procedures for collective bargaining, including salary determination, other agenda items and the resolution of grievances should be structured such that involvement in the political arena is avoided as much as possible. The recommendations contained in this report reflect this point of view.

4. The Collective Bargaining Process. It has been mentioned several times in these introductory comments that there is a need for reducing the importance of and the opportunity for exercising those collective bargaining tactics which have a negative impact on the educational system. The Committee is convinced that such bargaining should not be the major exercise in the educational arena as it has been in the last number of years. The Committee is cognizant however that the results of such bargaining are important to both teachers and trustees and have far reaching implications for the professional growth of teachers, recruitment into the profession, the quality of service to the children and the size of the taxation bill. The importance of

the results of collective bargaining does not necessarily mean that major confrontations must develop between teachers and trustees, and the bargaining machinery must be structured accordingly. It is possible to create an arena, a process and a mechanism for effective, efficient bargaining which provides for a fair opportunity for both teachers and trustees to negotiate in good faith and to resolve disputes appropriately.

These few points of view have been arrived at on the part of the Committee after much discussion and study and have determined much of the content of the recommendations which follow.

* * * * * * * * * * * * * * * *

This report contains recommendations, a short comment on each of the topics in explanation of the recommendations, and a draft of suggested legislation termed The Teacher Relations Act. It is intended that the contents of the suggested Act be regarded as an integral part of the views of the Committee on the subject under discussion.

II.

COLLECTIVE BARGAINING

Of the many sorts of influences that have shaped the framework of collective bargaining during the last few years, probably none has had more dramatic impact than the direct, intense and broadly-based public involvement that now characterizes most disputes between employers and employees. Until quite recently the process of collective bargaining was pretty much considered a private affair in which the general public was relegated to the role of spectator and even government involvement and intervention was, at least in most North American jurisdictions, circumscribed and hesitant.

The Process

The process of collective bargaining is no longer seen as an array of rather specialized structures and procedures within which accommodations are made to the essentially private interests of the parties directly involved. It is now quite clearly and generally recognized that the establishment of terms and conditions of employment for any class of employees in any industry has a pattern-setting effect that helps determine the shape of the network of economic relations in the whole of society.

Because the problem of trying to maintain order between employers and employees has become enmeshed in the basic economic, political and social processes of our society, it has become extremely difficult, in fact impossible in any simple way, to examine, describe

and evaluate collective bargaining as an isolated system. Yet many people understand it and have attitudes towards it in the form and substance which characterized it as it evolved in the industrial context. The fact is, of course, that most classes of employees who have the potential for creating an organization within which power devices can be developed and used in the particular interest of the membership have found ways of adapting collective bargaining structures and procedures to suit their needs. Office workers, retail store employees, teachers, nurses, supervisory employees, agricultural workers and many others outside the traditional industries of construction, manufacturing, mining and transportation enjoy terms and conditions of employment determined by bargaining processes. Even beyond these fairly recent developments among white collar and professional employees, power strategies including tactics of disruption have been developed by groups of people for purposes outside the ordinary employment relationships. Doctors have used varying degrees of withdrawal of service and other power devices of harassment against governments, not as employers but as administrators of centrally-financed and regulated health services. Acting as trade unions doctors have been prepared to use the closed shop provisions granted them through licensing legislation to censure and coerce members who threaten to deviate from the official bargaining position established through the College.

Blacks, native peoples, students, the unemployed, the hard-core poor and other economically and politically disadvantaged classes of citizens have, at various times, attempted to develop the organizational base necessary to the developments of a disciplined bargaining

posture in their relations with governments, government agencies, as well as eleemosynary and private organizations.

When one considers the totality and variety of relationships that presently obtain within the rubric collective bargaining - including the types of collectivities, the objectives sought, the strategies conceived and the tactics developed - a novel and challenging hypothesis emerges. The process of collective bargaining has been understood primarily as a device for the organization and control of economic power of the work place for the purposes of improving terms and conditions of employment. In actual fact the process has always involved more than this, even from the early years of the nineteenth century. Organized power of workers has always had a tendency, or at least a potential, for spilling over into the broader area of generalized political power within the state. The emphasis is often not really on wages, which involves a relationship with an employer, but on income in its broadest implications, which involves a relationship with the state. That is, those individuals who do not have a viable organizational base are not only economically disadvantaged but politically disadvantaged because they lack access to an avenue of political representation that is becoming increasingly important.

Probably when most people think about collective bargaining the emphasis is placed on the negotiation processes and power exchange that leads to the eventual acceptance of the terms of a collective agreement. Such a conception is so restricted as to be dangerously misleading. An illustration might provide a better perspective from which to appreciate the most significant impact of a collective bar-

gaining relationship. In many industries foreman and office supervisors are inwardly pleased when the union negotiates a substantial increase in wages, more generous pension provisions, more holidays, and other direct and indirect financial terms because such benefits are usually passed on, at least to the lower ranks of management, so as to maintain differentials necessary for a workable system of compensation. But it is generally recognized that the first level supervisor has a challenging, indeed extremely critical role to play in the management of the collective bargaining relationship. The first line supervisor is charged with the difficult task of producing the products or providing services which constitute the raison d'etre of a producing organization. But perhaps more than any other individual within the system his actions must reflect the concrete realities of competing forces of power, formal and informal, that manifest themselves on the work floor. This offers a clear demonstration that the establishment of levels of compensation represents more the face of the collective bargaining relationship than its heart.

A trade union, or any other sort of independent, autonomous employee association is the only type of organization that can effectively respond to the interests of many classes of citizens in a society whose major decisions reflect the interplay of power between various kinds of interest groups. The trade union can often carry the interest of the individual better than he himself can into the market; into the arena of formal politics including specific government policy and administrative practice; and even into the courts on his behalf. The collective bargaining relationship incorporates

within it a potential challenge to every act of public and private organizations. Therefore such directives as filter down through the extremely complex hierarchy of the state are subject to a kind of scrutiny that brings an openness to the various decision systems in society.

In this view, collective bargaining, centered on the importance of belonging to an organization having an effective power base, has become an essential adjunct to the formal political processes that have developed in liberal democracies.

The Relationship

In fact the two processes that according to historical principles are held to contribute to equality of opportunity between individuals, namely the market and universal suffrage, both tend to reflect the bias of power as it becomes manifest in various kinds of human groupings. The interest of the individual only becomes socially operable in so far as it becomes associated with or identical to an objective of a group. Traditionally the upper classes of western societies have had existences as groups, either through family or professional association. The same was true to a considerable extent of the more stable craft groups. But for the vast majority or ordinary citizens, especially in North America where class consciousness has never become a reality, the only viable organization base has been association based on the work organization.

We live in a work oriented society. The kind of work an individual does determines to a considerable extent the kind of life

he leads. Especially such fundamentals as standards of housing, food, clothing, recreation and improving opportunity are related to work performed. It is obvious that the condition of life, the basic potential of equity in living is at issue every working day. It is the union negotiating committee that, to the ordinary citizen, appears to establish the basic framework of financial existence. It is the shop steward, through the grievance procedure who constantly demonstrates an effective capability in respect of offering some protection over the rights of the individual under the collective agreement. And even beyond the terms of collective agreement, the worker who has been subjected to some discriminatory action in housing or some mix-up in his mortgage payments will, in many instances, get more effective action from his union than from the formal procedures of the law or than from private and governmental agencies whose function is to provide such services. In fact one of the central functions of workers' associations is to support, assist and direct the ordinary member in his contact with other large organizations. If some members at times receive inadequate, or even criminal treatment from union officials, this is a general problem of the relations between large organizations and their clients, not only of the relations between trade unions and their members.

Seen in this light the collective bargaining relationship whatever its manifest shape and substance in particular instances, whatever its stated objectives about rates of pay and fringe benefits, represents really a significant aspect of the complex power game played in society. Its appeal is that it can be much more "personal"

than the other two power sub-games - the market, or formal politics. The relationship between the lawyer and his provincial bar association, the nurse and the nurses' association, the teacher and The Saskatchewan Teachers' Federation, as with the electrician and his union, tends to carry considerable emotional significance if only that he feels he would be pretty helpless in the major power games if his social and economic effectiveness were entirely determined by his personal competence in the market or through the exercise of his right to vote.

There is no attempt here to determine exactly how much power any of these employee organizations actually have. The commitment of the members tends rather to be determined by the absence of any alternative. The teacher might have reservations about the policies and structures of The Saskatchewan Teachers' Federation but in the power game of competing interests it is for him or her the only game in town.

The evidence seems quite clear that the relative wage position of certain classes of employees has not significantly improved after two decades of aggressive collective bargaining - non-professional hospital employees are an obvious example - yet the attitude to the union remains positive and confrontations in the face of economic reverses often tend to improve morale rather than destroy the union.

It is doubtful whether according to any objective economic measures the lot of many of the groups who currently aspire to some form of collective bargaining relationship will really improve. But the psychic returns tend to accrue immediately and are considerable. And in any case the inequities that always exist in administrative

systems, private and governmental, can more easily be coped with from a collective power base. If the economic interest of the membership is often not really enhanced the fundamental civil and private contractual rights are. A landlord might exploit an individual tenant. He would probably be more reluctant to precipitate a major confrontation with a tenants' association.

Collective bargaining is a process through which accommodation can be reached between collectivities whose interests compete at least in certain directions. It is not entirely a rational process in that indeterminate conflicts of value always exist. Individuals develop ties with their various associations that can become intense especially in the face of the threat that develops in confrontation. Under these conditions extremes of behaviour sometimes emerge. In fact the behaviour that emerges in collective bargaining relationships manifests the same range of actions that tend to occur when issues are raised about which people are seriously concerned.

Collective bargaining has become a very significant and fundamental institution in modern industrial democratic societies. It has the capability of "personalizing" the more impersonal avenues of equity - the market and the system of formal politics.

Because collective bargaining reflects the current state of people's interests, values and beliefs, it tends to change as those interests, values and beliefs change. People will attempt to exert their interests through collective bargaining channels as long as the basic thrust of their interests is being accommodated. If their interests are frustrated, however, there is a tendancy for the party concerned to approach the government of the day to establish rules

and limitations which will result in an accommodation of their particular interests. In the process of responding to such an approach, however, governments tend to circumscribe the collective bargaining processes for all concerned and bargaining cannot then function as a vehicle of change. When the potential for accommodation of differing private interests through the process of collective bargaining is restricted, the parties will tend to resort to the broader approach of the formal political system. One way or another, people will find a way to give expression to their interests and beliefs. Thus, there are no simple political solutions to conflicts of interest.

In Saskatchewan Education

Dunlop[1] identifies the 'actors' in an industrial relations system as: "(1) a hierarchy of managers and their representatives in supervision, (2) a hierarchy of workers (nonmanagerial) and any spokesman, and (3) specialized governmental agencies (and specialized private agencies created by the first two participants) concerned with workers enterprises, and their relationship." In Dunlop's scheme it is assumed that the public interest is represented through the 'specialized governmental agencies' which places the collective bargaining system as an adjunct to the formal political structure and system of procedures to which citizens in liberal democracies have access. But the behaviour of people and organizations in collective bargaining relationships frequently have effects that are immediate, serious and personal. The decision system of formal politics that spans the marking of a ballot to the final processing of an order of government is slow,

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[1] John T. Dunlop. Industrial Relations Systems, New York: Henry Holt and Co., 1958.

cumbrous and impersonal. The public has devised ways of entering collective bargaining systems as participants, often with questionable degrees of legitimacy, but nevertheless with considerable impact. The effect of this is to open to public scrutiny and comment the details of the collective bargaining process as well as the end results. Carrying this observation into the power relations between trustees and teachers points up some interesting ramifications. Each of the participants in the system, the trustees, the teachers and the government (specifically the Minister of Education and the members of his department) have a legitimate basis for claiming the right to reflect the interest of the general public. Two of the parties have a formal political mandate and the others, the teachers, have broadly based grass-roots contacts with a considerable segment of parents throughout the province.

Adversary relationships tend to simplify out into two party relationships. The effective power of the Minister over the administration of the system to some extent depends upon his ability to join an issue on one side or the other with the disputants. However, it is now possible for either the trustees or teachers to threaten to "take an issue to the public" even in the face of Ministerial opposition. The effect of this is to increase the possibility of confrontation through an array of tactics that do not really exist as alternatives in private collective bargaining systems.

The Committee has therefore been concerned to devise ways of 'depoliticizing' the system. One such device is to place the Minister, the public and the courts beyond the reach of the two prime parties by the creation of The Teacher Relations Board as a quasi-judicial

regulatory agency. Also, by formalizing dispute settlement through the recommended procedures of mediation and arbitration, and by restricting access to the courts on procedural matters, it is hoped that the relationship can be simplified so as to enhance the possibility of mutual understanding and accommodation.

The knowledge of the public about the process has not been restricted in any way. In fact, arbitration and conciliation reports will presumably foster comment on questions of equity by the public and the news media at appropriate points in the process. Because there are more alternatives available to both parties in the course of searching for a settlement, the consequences should be sufficiently apparent that bargaining will be approached with the objective of achieving equitable and expeditious settlements.

III.

THE BARGAINING AREA AND THE PARTICIPANTS

The Bargaining Area

The positions of both the teachers and trustees are clear in the matter of the level at which contract bargaining should take place. The teachers' position reaffirms a stand which they have held for some time in support of bargaining at the provincial level. At the same time, while they indicate that such negotiations at the provincial level should go on between the teachers and the government, they see the advantage of a provincial area for negotiation purposes outweighing a return to the local area or the retention of area bargaining as it presently exists. The teachers also support the view that some kind of "bi-level" negotiation should take place at the provincial level and at the local level.

The trustees on the other hand formally support the area bargaining concept. This support is due largely to a recognition that contract bargaining at the local administrative unit level becomes subject to the deficiencies of division of purpose and of variations of quality of negotiations. At the same time the trustees reject a provincial area indicating that negotiations at this level between teachers and trustees would not reflect the "grassroots" pressures and resources about which, the trustees feel, negotiators should be cognizant.

Perhaps the most significant argument in favour of abandoning the area bargaining concept can be defined through observation

of current area bargaining practices. It is apparent to the Committee that both The Saskatchewan School Trustees Association and The Saskatchewan Teachers' Federation have significant control within their organizations over negotiations and the types of settlements which result. These organizational restraints inhibit settlements.

In addition, there is evidence that one bargaining area may be reluctant to settle for fear of criticism from other areas who may feel themselves adversely affected by an unfavorable settlement.

It is the opinion of the Committee, therefore, that the present "area" concept denies the realities of the power structures behind bargaining and at the same time creates obstacles to the achievement of settlements.

The removal of bargaining from the area to the provincial level will resolve these difficulties. It would also, in the view of the Committee, enhance the possibility for significant discussions to take place relative to the ongoing educational program at the local level between teachers and trustees.

The Committee recognizes that if collective bargaining is to be effectively carried out by the teachers and trustees at the provincial level, a structure within each of the organizations should be devised to provide for communication from the teachers and the local fiscal boards to their provincial organizations. The Committee is confident that each of the organizations will be able to meet this requirement.

RECOMMENDATION #1

That collective bargaining on negotiable items referred to in Section V of this report take place at a single provincial level and that area bargaining as it presently exists be abolished and that The Teacher Salary Agreements Act be repealed.

The Participants

The position of both teachers and trustees is clear on the topic of the participants in the contract bargaining process. The teachers have advanced their well known position that The Saskatchewan Teachers' Federation membership should negotiate directly with the provincial government. The teachers go on to support the view in their "bi-level" concept that further negotiations should take place with teachers and trustees at the local level. The teachers favour, therefore, negotiating with the government at the provincial level and trustees at the local level.

This "bi-level" concept, which The Saskatchewan Teachers' Federation supports, suggests negotiations encompassing a wide range of topics and suggests that they may well negotiate with the government at the provincial level on monetary matters and with local boards on matters relating more directly to the management and operations of the schools. The Committee does not accept this suggestion that two levels of negotiation should take place.

The Saskatchewan School Trustees Association on the other hand advances the thesis that if local government is to be preserved and if the best interests of the parents are to be advanced, the trustees must be a party to the contract bargaining process. The Committee is sympathetic to this view and tends to support the ideas which The Saskatchewan School Trustees Association has advanced in opposition to teacher-government bargaining, teacher bargaining with a multi-membership body of government and trustees and with teacher-trustee bargaining at the local level.

RECOMMENDATION #2

That the exclusive bargaining agents be The Saskatchewan Teachers' Federation representing teachers and The Saskatchewan School Trustees Association representing all school boards.

Negotiation at the provincial level between teachers and trustees has the advantage of eliminating the obstacles of "whip-sawing" which is often a feature of a multi-unit bargaining situation. The single negotiation area has the advantage as well of placing the decision as to the extent of local involvement squarely on the shoulders of the two organizations involved. The Saskatchewan School Trustees Association and The Saskatchewan Teachers' Federation can design whatever internal communication and decision-making system each wishes in order to foster and to accommodate local involvement. The degree of such involvement becomes, therefore, a matter of organizational choice rather than a requirement of the negotiation practice.

IV.

THE PROCESS

This section of the report is concerned with the method by which collective bargaining should be conducted at the provincial level between teachers and trustees, the process for resolving disputes, and the duration of collective agreements.

Free collective bargaining requires a minimum of government involvement and a commitment on the part of government to accept collective agreements with respect to (principally) monetary matters. Accordingly a two year agreement seems to be a logical minimum period for such agreements to be in effect. This allows for budget planning on the part of government and school boards, it allows for a respite in major confrontations and it provides the opportunity for both teachers and trustees to devote more of their time and energies to discussion of other educational matters.

RECOMMENDATION #3

That all collective agreements be for a term of two years beginning on January 1 of the first year and terminating on December 31 of the second year, but remaining in force until a new collective agreement is concluded.

The collective bargaining procedure which the Committee recommends is one which provides alternative courses of action, one of which is to be selected by the teachers prior to the commencement of the negotiation period. This concept of the "two route" system is one which has been accepted at the federal level in The Public Service

Staff Relations Act[1].

Under the first alternative, negotiations may proceed without any limitations of time, and either party may request The Teacher Relations Board to appoint a mediation team to assist the parties in concluding a collective agreement. The most important feature of this alternative is that at any time either party may request arbitration, and a board of arbitration will resolve any disagreement or dispute. The choice of alternatives must be made prior to the actual commencement of negotiations. The possibility of interruptions of educational services arising from negotiations under this alternative are minimal because of the fact that arbitration would settle matters before disagreements reached that stage.

Similarly there are no time limitations in the second of the alternatives. Either party, however, may request the chairman of The Teacher Relations Board to establish a Conciliation Board to investigate the matters in dispute and make recommendations for settlement. The chairman of The Teacher Relations Board may or may not agree to establish a Conciliation Board, depending upon whether or not the establishment of such a board would be conducive to the conclusion of a collective agreement. The report of the Conciliation Board would not be binding upon the parties unless they had agreed in advance to be so bound. If a collective agreement is not concluded within fourteen days after delivery of the report of the Conciliation Board to the parties, teachers would be under no further legal

1. 1966 - 67 Statutes of Canada, Ch. 72.

obligation to provide services and school boards would be under no legal obligation to maintain educational services.

RECOMMENDATION #4

That prior to commencement of collective bargaining which shall be on August 1 of the year in which a collective agreement terminates, The Saskatchewan Teachers' Federation be required to select one of two procedures for settlement or resolution of any disagreement or dispute, such choice to be communicated by The Saskatchewan Teachers' Federation to the Chairman of The Teacher Relations Board who, in turn, will notify The Saskatchewan School Trustees Association. The alternatives are as follows:

A. *Negotiations during which either party may request arbitration if the parties are unable to conclude a collective agreement; such request for arbitration to be made to The Teacher Relations Board. During negotiations either party may request the assistance of a mediation team appointed by the Chairman of The Teacher Relations Board.*

B. *Negotiations during which either party may request The Teacher Relations Board for a Board of Conciliation. The Board of Conciliation would hear evidence and representations in respect of the issue or issues in dispute and make a report and no suspension of or interference with educational services would be permitted until the parties have received a copy of the report.*

RECOMMENDATION #5

That the Board of Arbitration be composed of a member appointed by The Saskatchewan Teachers' Federation, a member appointed by The Saskatchewan School Trustees Association and a Chairman agreed to by such members. Failing agreement, a Chairman shall be appointed by the Chairman of The Teacher Relations Board.

RECOMMENDATION #6

That the Board of Conciliation shall be composed of a member appointed by The Saskatchewan Teachers' Federation, a member appointed by The Saskatchewan School Trustees Association and a Chairman agreed to by such members. Failing agreement, a Chairman shall be appointed by the Chairman of The Teacher Relations Board.

RECOMMENDATION #7

That the team of mediators be two persons appointed by the Chairman of The Teacher Relations Board.

In any discussion of collective bargaining systems the most important question concerns the limits of the jurisdiction of the system. How clearly defined are the boundaries of the system and by what devices is the integrity of the boundaries ensured? Collective bargaining allows whatever latitude of bargaining freedom society deems appropriate to the particular participants involved. There exists the constant danger that either or both of the participants will, in pursuit of a particular interest, resort to tactics not ordinarily used in the system. These might be sufficiently unique to cause temporary consternation and dislocation or, indeed, quite obvious violations of the law. Or one of the parties, even within the law, in the process of demonstrating the validity and scope of bargaining power might inflict hurt on the community that is felt to be beyond accepted notions of social responsibility.

The community might be unwilling to accommodate the inconveniences, real or imagined, that tend to be associated with bargaining conflicts and deny to certain occupational groups any real bargaining rights (as, until recently, has been the case with civil service employees in many jurisdictions) or any right to resort to withdrawal of services as a device of persuasion

(as in the case of policemen, firefighters, and many other employee groups).

These issues and practices are often understood and discussed as peripheral phenomena that flow from the central core of wage-setting and grievance handling in employer - employee relations. Prior significance is often given to the uninterrupted flow of goods and services, and certainly this relfects the most tangible, visible implications of productive relations.

However society, at least Western democratic societies, have for some time now sanctioned a system which is prepared to tolerate a considerable amount of economic and social dislocation. The reasons for this toleration is that it reflects one of the most fundamental and cherished of social values.

The Western democracies have been characterized as embodying "the politics of economic choice". We tend to view negatively restrictions on occupational choice and undue interference with the right of the individual to accept or reject terms and conditions of employment.

The only exception to this orientation that is accepted without question is when threats to security are involved. In contests of particular interests the state attempts to restrict its role to that of unbiased arbiter. Only when the general interest is threatened does the government become directly involved.

However in the face of an actual or anticipated dispute each of the participants seeks to persuade the government that the

general interest is identical to its particular interest. It is in response to pressures of this kind that limitations on the freedoms of collective bargaining systems are determined. However, in an open, democratic society, wide latitude in the control of the services of an individual is a significant personal right; the only body that is clearly justified in restricting this right is the government representing the interests of all the people.

It is at least difficult in principle to justify even the right of a government to deny to any class of employees full collective bargaining rights, including resort under general social control to those economic strategies that have been developed in western democracies as the common currency of power exchanges between employers and employees. Having enunciated the principle of "free collective bargaining" as a basic and important individual and collective "right" it must be conceded that circumstances might, and in fact occasionally do arise in which such private rights give way to the more general and weightier public right to economic peace and security. However, it is the nature of our political system that judgments as to the proper compromise between competing values concerning the basic rights of citizens should be made by governments in a manner that is fully visible to public scrutiny and in the details of proposed remedies, subject to the democratic test of parliamentary debate.

The effect of the principle being stated here is that outside of cases appropriate for immediate action that can be taken in response to violations of penal statutes, collective

bargaining legislation should offer the widest possible latitude of action consistent with the individual and collective capacity to maximize a private interest. If the latitude granted is narrower than is obviously and constantly necessary for the protection against a real threat to society, there is on the one hand the unnecessary and therefore inequitable limitation of the rights of some citizens, and on the other hand the possibility that the law is being used to further the private interest of one group of citizens against the private interest of another group of citizens. Both types of errors represent frivolous or even meretricious use of the law governing collective bargaining, tend to foster disrespect for the law, and may contribute to extreme and socially irresponsible violations. Finally, the principle offered here emphatically reaffirms the right of a legislature, through the enactment of special legislation to meet particular situations as the need arises, as the only appropriate way of restricting "free collective bargaining". It is not a pleasant prospect to consider the possibility of having freedoms of any kind restricted. However, when restriction is necessary there can be no question that the central political processes of a democracy embody the necessary authority; and it is assumed that all the elected representatives of the people, limited only by valid constitutional restraints, will accept their responsibility by exercising such authority.

V

BARGAINING ITEMS

Bargaining items include those matters which relate to terms and conditions of employment. The Committee is contending that along with such items as salary, leaves of absence and supervisory allowances, matters relating to the structure of the salary grid and to teacher tenure fall legitimately within the context of collective bargaining. Indeed, there is clear evidence of inadequacies in terms of allocation of resources in the payment of teachers. It is the hope, therefore,that teachers and trustees will resolve these matters.

RECOMMENDATION #8

That The Saskatchewan Teachers' Federation and The Saskatchewan School Trustees Association bargain collectively with respect to the following items:

1) *salaries including the system of salary determination and the schedule of increments*
2) *employment security, dismissal and grievance procedures*
3) *leaves of absence*
4) *supervisory allowances*
5) *such other matters as the parties may agree to negotiate or which failing agreement are approved for negotiation by The Teacher Relations Board prior to the commencement of any negotiation period.*

Provisions for tenure and dismissal procedures are currently contained in The School Act, The Secondary Education Act, and The Teacher Tenure Act. The Committee believes that such provisions should be deleted from the statutes for two reasons. First of all, present legislative provisions place the Minister of Education at the apex of the procedural mechanism and experience in recent years has shown that there has tended to be an unwarranted and undesirable "politicization"

of the events surrounding such procedures. The Committee believes that there are much more expeditious ways of handling disputes surrounding tenure and dismissal which will at the same time protect the respective rights and interests of the parties concerned. Secondly, considering the principles underlying collective bargaining teachers should have the right to negotiate such procedures and mechanisms.

It would be difficult for the parties to negotiate such matters as tenure and dismissal which are governed by various statutes and without any guarantee that such statutory provisions will be repealed by the Legislature. On the other hand, the Legislature should not create a vacuum by repealing statutory provisions before the parties have negotiated provisions to take their place. The Committee recommends that amending legislation be put before the Legislature to repeal the relevant provisions but that the amendments be made to come into effect on a date to be proclaimed by the Lieutenant Governor in Council. This will enable the effective repeal of legislation to be made after a collective agreement covering the matters has been concluded.

RECOMMENDATION #9

That Sections 237, 238 and 239 of The School Act, Sections 65, 66 and 67 of The Secondary Education Act, and The Teacher Tenure Act be repealed, such repeal to come into effect on a date proclaimed by the Lieutenant Governor in Council.

These recommendations have several features to commend them. First those specific items mentioned are protected for negotiation purposes at the provincial level. Bargaining on these matters can take place only at that level. Secondly, provision is made for the addition to the list of bargaining items either through mutual agreement or at the direction of The Teacher Relations Board.

Thirdly, The Teacher Relations Board will supervise the process in the interests of the educational system.

The limits to bargaining items are those inherent in the concept of mutual agreement and the approval of The Teacher Relations Board and those items currently governed by legislation or regulation. Since some of these latter items may be legitimate matters for negotiation the following recommendation is made:

RECOMMENDATION #10

That upon approval of the request of either party or on its own motion, The Teacher Relations Board recommend to the Minister the repeal or amendment of any additional legislation or regulation necessary to permit additional matters to be negotiated.

It will be noted that all bargaining items are to be approved for inclusion in the collective bargaining process prior to the beginning of the negotiation period. This recommendation is consistent with the Committee's view that all matters of procedure should be clearly established before bargaining commences.

RECOMMENDATION #11

That applicable terms and conditions set out in a collective bargaining agreement be incorporated into the contract of employment of the individual teacher.

VI.

THE TEACHER RELATIONS BOARD

As has been mentioned in the first part of this report, this Committee is aware of the "political" nature of much of the current contract bargaining process, dispute settlement arrangements and grievance resolution procedures. The creation of The Teacher Relations Board, a body intended to be established by statute and given the power to supervise contract negotiations and contract dispute settlements and to determine the resolution, in the final analysis of grievances, will to some considerable degree "depoliticize" these procedures and the results of these procedures.

RECOMMENDATION #12

That a Teacher Relations Board be established, the members of which shall be appointed by the Lieutenant Governor in Council as follows:

1. *two members named by The Saskatchewan School Trustees Association,*
2. *two members named by The Saskatchewan Teachers' Federation,*
3. *a chairman named by agreement by the said members; or failing agreement named by the Lieutenant Governor in Council,*
4. *the term of appointment of members will be four years except that the initial appointment of one member named by The Saskatchewan Teachers' Federation and of one member named by The Saskatchewan School Trustees Association shall be limited to two years.*

The Teacher Relations Board is viewed as a neutral, unbiased body promoting, in the final analysis, the interests of the children in all collective bargaining actions. The supervisory nature of the board's responsibility is such that all negotiation activities between

teachers and trustees come under its purview at some point in the process. This arrangement provides for consistency in teacher-trustee bargaining and brings a perspective to provincial bargaining which would otherwise be lacking.

Similarly, it is intended that The Teacher Relations Board supervise and be final adjudicator in dispute settlements. It is intended that grievances and contract disputes not find their way into the courts or the political arena. Rather, it is hoped that these items will be a far less critical aspect of teacher-trustee relationships than they appear to have been in the recent past. This concept is consistent with the concern of the Committee to reduce the whole matter of contract negotiations and dispute settlements to a less dominant place in teacher-trustee relationships. As important as these items are to both teachers and trustees, of more importance are the positive relationships which hopefully will develop as a result of a non-political, expeditious treatment of such matters.

RECOMMENDATION #13

That the duties and responsibilities of The Teacher Relations Board include:

1. *general supervision of a collective bargaining system;*
2. *hearing appeals respecting grievances;*
3. *determining negotiable matters;*
4. *determining applications regarding the exclusion of principals, vice-principals, and other teachers from collective bargaining;*
5. *the duties and responsibilities of The Teacher Classification Board.*

RECOMMENDATION #14

That the duties and responsibilities of the Chairman of The Teacher Relations Board include:

1. appointing teams of mediators when requested during the bargaining process;

2. appointing a Board of Arbitration or a Board of Conciliation when requested during the bargaining process;

3. appointing a Board of Arbitration to hear and determine grievances, one member to be nominated by The Saskatchewan Teachers' Federation, one member to be nominated by The Saskatchewan School Trustees Association and the Chairman named by agreement by the said members; or failing agreement named by the Chief Justice of Saskatchewan.

VII.

GRIEVANCE PROCEDURES

Grievance procedures in the opinion of the Committee encompass all matters which are part of the collective agreement between The Saskatchewan Teachers' Federation and The Saskatchewan School Trustees Association and in addition include any dispute or complaint between a teacher and a board. The Committee feels that a grievance procedure is an essential ingredient of any bargaining process. Furthermore, such procedures represent serious involvement of teachers and trustees at the local level and offer an opportunity for the development of internal rules for the better operation of the system and harmonious relations between teachers and boards.

It must be emphasized that the grievance is advanced by the bargaining agent and not by the teacher. The responsibility is that of The Saskatchewan Teachers' Federation. A teacher with a complaint will first have to satisfy The Saskatchewan Teachers' Federation that a grievance should be filed and proceeded with.

For transitional purposes the Committee is suggesting a statutory grievance procedure which will apply until mutually agreed procedures are negotiated by the parties and included in a collective agreement. While recommending that this be done at the provincial level for the sake of general uniformity, this will not exclude variations applicable to local areas should this become necessary.

Since the Committee is assured by The Saskatchewan Teachers' Federation that they are organizationally able to deal with this kind of situation, it is expected that most grievances will originate at the local level and be dealt with, as far as possible, at that level. The process therefore will, in the main, involve the "local" of The Saskatchewan Teachers' Federation and the employing boards.

Special mention must be made of the role of the principal. It is inevitable that the principal will frequently be involved in the first stage of the grievance procedure, since a great many of these grievances will involve a difference between a teacher and a principal. The first step in such cases will be a meeting between the bargaining agent and the principal. It seems obvious therefore that in all such cases the principal will be in a managerial role.

It is the opinion of the Committee that the result will be greater responsibility and involvement for local boards and greater latitude for teachers who must and do accept the view that employment as a teacher involves professional responsibility. The development of this responsibility necessarily requires a system that has flexibility and one in which decisions can be challenged and examined.

RECOMMENDATION #15

That any complaints or grievances with respect to disciplinary matters other than dismissal be resolved by negotiation between The Saskatchewan Teachers' Federation local and the employing board as follows:

1. *The Saskatchewan Teachers' Federation shall file a complaint in writing with the principal.*
2. *If no settlement is reached with the principal, the complaint shall be placed before the superintendent or director of education.*
3. *If no settlement is reached with the superintendent or director of education or principal, the complaint shall be placed before the secretary of the employing board and the board at its next regular meeting shall hear and consider the complaint.*
4. *If no settlement is reached The Saskatchewan Teachers' Federation shall request the Chairman of The Teacher Relations Board for a Board of Arbitration and the Chairman shall establish a board.*
5. *Either party may appeal the award of the Arbitration Board to The Teacher Relations Board within fifteen days from the award and its decision will be final.*

RECOMMENDATION #16

That a complaint or grievance involving the dismissal of a teacher be resolved by negotiation between The Saskatchewan Teachers' Federation and the employing board and failing settlement, may be referred to arbitration.

RECOMMENDATION #17

That a complaint or grievance with respect to the interpretation or application of a collective agreement or any alleged violation thereof be resolved by negotiation between The Saskatchewan Teachers' Federation and The Saskatchewan School Trustees Association and failing settlement, may be referred to arbitration.

VIII.

ADMINISTRATORS

This section of the Report discusses the question of which teachers should be part of the bargaining unit and which should be beyond the scope of the collective agreement. In many quarters, the extent of the question has been narrowed down to considering whether or not principals as a group should be out of scope. The present area bargaining legislation partially evades the question by enabling each school board to declare a maximum number of its personnel to be out of scope depending solely upon the number of teachers employed by the school board concerned and not upon the title or function of the position.

The Committee does not believe that scope can be looked at in a narrow context related solely to such simple criteria as the title of a position (i.e. principal). The criteria should relate to the role of the particular person in the organization. That is, it would seem that a person should be out of scope if he is required to perform duties and functions within the instructional hierarchy which significantly conflict with his duties, obligations and expectations as a member of the bargaining unit. On the other hand, if such conflict does not exist, there would seem to be little argument in favour of having the person out of scope.

RECOMMENDATION #18

That The Teacher Relations Board may upon the application of any school board if satisfied that any principals, vice-principals, or other teachers are regularly exercising authority primarily of a managerial, supervisory and evaluative nature, and who regularly act in a confidential capacity with respect to teacher-board relations, by order exclude such principals, vice-principals, or other teachers from the collective bargaining process.

The Committee sees the foregoing criteria applying to some principals, particularly when one recognizes the practice of some school systems in delegating a great deal of managerial responsibility to their principals including the development and administration of the budget, the setting of educational and budgetary priorities within board constraints, recommending on the engagement and dismissal of teachers, assigning duties to other instructional personnel, and evaluating teachers. It would seem that the criteria may not apply to a substantial number of principals even though arguments can be mustered in favour of having a management representative in every school. The Committee believes that decisions on scope can best be made by The Teacher Relations Board and that this Board may have to develop more detailed criteria within the framework of the general criteria which the Committee recommends. The Committee stresses the desirability of questions of scope to be decided by The Teacher Relations Board within the context of its broad overview of the negotiation process and the educational scene rather than having the question decided in a specific and detailed fashion in legislation or regulations.

It should also be emphasized that the Committee does not view decisions on scope as a vehicle for bringing about changes in the role of the principal. Emerging changes in the role of a substantial number of principals create the need for continuing redefinitions of their place in the barginaing process to reflect the realities of the relationship of the principal to others in the instructional hierarchy.

IX.

PAY RESEARCH BUREAU

Investigations of the Committee included a limited examination of the federal Pay Research Bureau. The Committee has also noted that the recommendations of the Committee of Inquiry into Negotiation Procedures concerning Elementary and Secondary Schools of Ontario call for a similar body to be established for teachers in that province. The Committee does not believe that the functions of such a bureau should be limited to teachers. Instead, there would be considerable advantage in having such functions performed as part of a more comprehensive bureau providing services for all of Saskatchewan.

RECOMMENDATION #19

That the establishment of a Provincial Pay Research Bureau which would provide data to teachers and trustees with respect to salary matters be investigated.

X.

THE TEACHER RELATIONS ACT

B I L L

No. of 1972

The Teacher Relations Act

(Assented to 1972)

Her Majesty, by and with the advice and consent of the Legislative Assembly of Saskatchewan enacts as follows:

1. This Act may be cited as The Teacher Relations Act.

2.-(1) In this Act:

(a) "bargaining collectively" means negotiating in good faith with a view to the conclusion of a collective bargaining agreement or a renewal or revision of a collective bargaining agreement, the embodiment in writing of the terms of agreement arrived at in negotiations or required to be inserted in a collective bargaining agreement by this Act, the execution by or on behalf of the parties of such written agreement and the negotiating from time to time for the settlement of disputes and grievances of teachers covered by the agreement;

(b) "board" means The Teacher Relations Board mentioned in section 4;

(c) "chairman" means the chairman of The Teacher Relations Board;

(d) "collective agreement" means an agreement in writing between the parties setting forth the terms arrived at in negotiations or required to be inserted by this Act;

(e) "dispute" means a dispute or difference arising in connection with the conclusion, renewal or revision of a collective agreement, in respect of which arbitration is requested pursuant to section 17 or in respect of which the establishment of a conciliation board may be requested pursuant to section 26.

(f) "grievance" includes any disagreement between the parties with respect to the meaning or application of a collective agreement, any violation of a collective agreement and any matter involving disciplinary action against a teacher, including dismissal.

(g) "parties" means The Saskatchewan Teachers' Federation and The Saskatchewan School Trustees Association;

(h) "process for resolution of a dispute" means the resolution of a dispute, either

  (i) by the referral of the dispute to arbitration, or

  (ii) by the referral thereof to a conciliation board;

(i) "school board" includes any board employing one or more teachers.

(j) "teacher" means a person who holds a valid certificate of qualification from the Department of Education to teach in a school established under the provisions of The School Act, The Secondary School Act or The Vocational Education Act or any former School Act, Secondary Education Act or Vocational Education Act, and who is employed by a school board in teaching classes or for duties chiefly related to the development, supervision or administration of the instructional program; but does not include a substitute teacher as defined in The School Act or an administrator, or principal, or vice-principal or any other teacher declared by The Teacher Relations Board to have and regularly exercise authority primarily of a managerial, supervisory and evaluative nature and to regularly act in a confidential capacity respecting relations between a school board and teachers.

-(2) Terms and expressions used in this Act, unless the context otherwise requires, shall have the same meaning as are given to them in The School Act.

3.-(1) The Saskatchewan Teachers' Federation and The Saskatchewan School Trustees Association have exclusive authority as the sole parties to bargain collectively on behalf of teachers and trustees.

-(2) Subject to subsection (1) this Act applies:

(a) to every school board;

(b) to every teacher;

(c) to every trustee;

(d) to The Saskatchewan School Trustees Association;

(e) and to The Saskatchewan Teachers' Federation.

4.-(1) The parties shall bargain collectively with respect to:

(a) salaries including the system of salary determination and increments;

(b) security of employment;

(c) dismissal and grievance procedures;

(d) leaves of absence;

(e) supervision allowances;

(f) such other matters as the parties may agree to negotiate or which are approved for negotiation by The Teacher Relations Board prior to the beginning of any negotiation period.

-(2) Upon the application of either party or on its own motion The Teacher Relations Board may approve any matter for bargaining collectively.

-(3) If The Teacher Relations Board approves a matter for bargaining which is governed by statute or regulation the Board shall recommend appropriate amendments to the Minister of Education for his consideration.

5. Negotiations for the conclusion or revision of a collective agreement shall commence on August 1st of each year in which an agreement is to be negotiated or revised and the agreement shall

be for a two-year period commencing on January 1st and terminating on December 31st of the year following.

6. All contracts of employment between teachers and school boards shall be deemed to include all applicable terms and conditions contained in a collective agreement made between the parties pursuant to this Act and such terms and conditions shall, notwithstanding the termination of a collective agreement, remain in force for the duration of any such contract of employment and until a new or revised collective agreement is concluded between the parties.

THE TEACHER RELATIONS BOARD

7.-(1) There shall be a board to be known as The Teacher Relations Board, composed of five members appointed by the Lieutenant Governor in Council at such salaries or remuneration as he deems fit. The Lieutenant Governor in Council shall appoint two persons to the board named by The Saskathewan Teachers' Federation and two persons named by The Saskatchewan School Trustees Association. The four members, once appointed, shall attempt to agree on a person to be appointed as chairman. If agreement is reached, the Lieutenant Governor in Council shall appoint the person agreed upon to be chairman. Failing agreement, a chairman shall be named and appointed by the Lieutenant Governor in Council.

-(2) The chairman and each member of the board shall hold office during good behaviour for a period of four years; one of the two members named by The Saskatchewan Teachers' Federation and The Saskatchewan School Trustees Association respectively shall initially be appointed for a period of two years. A retiring chairman or member of the board shall be eligible for re-appointment.

-(3) All orders, decisions, rules and regulations made by the board shall be signed by the chairman, or in the absence or disability of the chairman by any one member on behalf of the chairman and when so signed shall have the like effect as if signed by the chairman.

-(4) Where any order, decision, rule or regulation purports to be signed by a member on behalf of the chairman, it shall be conclusively presumed that such member has so acted in the absence or disability of the chairman.

-(5) The board may meet at such times and places as it considers necessary or desirable for the proper conduct of its business.

-(6) At any meeting of the board for the conduct of its business, at least the following members shall be present, namely:

(a) the chairman;

(b) one member who was named for appointment by The

Saskatchewan Teachers' Federation;

(c) one member who was named for appointment by The Saskatchewan School Trustees Association.

-(7) A decision of a majority of those present at any meeting of the board is a decision of the board.

8.-(1) The chairman is the chief executive officer of the board.

-(2) The board shall appoint a secretary who shall be subject to the direction of the chairman, and such other officers and employees as the board deems necessary for the performance of its duties.

-(3) The chairman may appoint and fix the remuneration of mediators, conciliators and arbitrators subject to the approval of the Lieutenant Governor in Council.

-(4) The chairman may appoint and fix the remuneration of legal counsel or persons having other expertise to assist the board in an advisory capacity, subject to the approval of the Lieutenant Governor in Council.

9.-(1) The board shall administer this Act and shall exercise such powers and perform such duties as are conferred or imposed upon it by, or as may be incidental to the attainment of the objects of this Act, including, without restricting the generality of the foregoing, the making of regulations governing procedures to be followed by the parties in bargaining collectively and in their relations with the board, and the making of orders re-

quiring compliance with this Act, with any regulation made hereunder or with any decision made in respect of a matter coming before it.

-(2) In all matters that come for decision before the board or before an arbitrator, arbitration board, or conciliation board, factors to be given primary consideration are the advancement and improvement of Saskatchewan's educational system and the welfare of students in that system.

10.-(1) The board shall have the power:

(a) To hear and determine applications by school boards for the exclusion of principals, vice-principals or other teachers from bargaining collectively and to determine the nature and extent of their functions in The Saskatchewan Teachers' Federation.

(b) to determine whether the parties or either of them have failed to bargain in good faith;

(c) (i) to make recommendations to the Minister with respect to defining and classifying teacher qualifications for inclusion in the regulations; and

(ii) to hear in such manner as it may determine, the representations of any teacher or anyone on his behalf, or the parties, with reference to that teacher's inclusion in a class of teachers, examine or review any evidence submitted in that behalf and make a determi-

nation of the issue; and the determination shall be binding on the teacher and the school board employing such teacher;

(d) to hear and determine appeals from any final award of any arbitrator or arbitration board where an appeal is permitted by this Act;

(e) to hear applications by either or both parties with regard to the amendment or repeal of any statutory or regulatory provisions and following a hearing on the matter, power to recommend changes in legislation or regulations to the Minister of Education;

(f) to recommend changes in legislation or regulations to the Minister of Education on its own motion;

(g) to receive and accept such evidence and information on oath, affidavit or otherwise as in its discretion it may deem fit and proper whether admissible as evidence in a court of law or not with all the powers of a commissioner under The Public Inquiries Act.

11. A copy of each regulation or amendment to a regulation that the board proposes to make shall be published in the Saskatchewan Gazette and a reasonable opportunity shall be afforded to the parties and any interested members of the public to make representations with respect thereto.

12. The board may make any order or direction, prescribe any term or condition or do any other thing in relation to any person

either generally or in any particular case or class of cases.

13. No member of the board, no mediator, no conciliator, and no arbitrator, or officer or employee of or person appointed by the board shall be required to give evidence in any civil action, suit or other proceeding respecting information obtained in the exercise or purported exercise of any powers given under this Act.

14.-(1) Except as provided in this Act, every order, award, direction, decision, declaration or ruling of the board, an arbitrator or arbitration board is final and shall not be questioned or reviewed in any court.

-(2) No order shall be made or process entered, and no proceedings shall be taken in any court, whether by way of declaration, injunction, certiorari, prohibition, quo warranto or otherwise, to question, review, prohibit or restrain the board, an arbitrator or arbitration board in any of its or his proceedings.

PROCESS FOR RESOLUTION OF A DISPUTE

15.-(1) The Saskatchewan Teachers' Federation shall, not later than July 31st in any year in which a collective bargaining agreement is to be concluded, renewed or revised, specify which of either of the processes described in paragraph (h) of section 2 shall be the process for resolution of any dispute by delivering a notice in writing to The

Saskatchewan School Trustees Association and filing a copy thereof with the chairman.

-(2) The process for resolution of a dispute specified as provided in subsection (1) shall be the process applicable for the resolution of all disputes from the day on which it is given until altered in accordance with subsection (1).

16.-(1) Where a dispute arises between the parties,

(a) if the process for resolution of a dispute applicable is by the referral thereof to arbitration, sections 17 to 25 apply to the resolution of the dispute; and

(b) if the process for resolution of a dispute applicable is by the referral thereof to a conciliation board, sections 26 to 34 apply to the resolution of the dispute.

ARBITRATION BOARD

17. Where a dispute arises between the parties, either party may by notice in writing advise the chairman that it desires the assistance of a mediation team in reaching agreement, whereupon the chairman shall appoint two mediators to act as a mediation team who shall, forthwith after their appointment, confer with the parties and endeavour to assist them in reaching agreement.

18. The members of a mediation team shall, each within fourteen days from the date of their appointment or within such longer

period as the chairman may determine, report in writing to the chairman.

19.-(1) Where a dispute arises between the parties, either party may by notice in writing to the chairman request arbitration.

-(2) Where arbitration is requested by notice under subsection (1), the party requesting arbitration shall:

(a) specify in the notice the terms in respect of which it requests arbitration and its proposals concerning the award to be made, and

(b) specify the name of the person whom it appoints to the arbitration board.

20.-(1) Where notice under section 19 is received by the chairman, he shall forthwith send a copy to the other party, who shall within seven days after receiving it advise the chairman, by notice in writing, of any matter, additional to the matters specified in the notice under section 19, that has been a subject of negotiation between the parties during the period before an arbitration was requested but on which the parties were unable to agree, and in respect of which that other party requests arbitration, and shall specify the name of the person whom it appoints to the arbitration board.

-(2) Where arbitration in respect of any matter is requested by notice under subsection (1), the notice shall specify

proposals concerning the award to be made.

21.-(1) The two appointees named to an arbitration board by the parties shall, within ten days of the appointment of the second of them, appoint a third member who shall be chairman.

-(2) Where:

(a) the party receiving the notice from the chairman under section 20 fails to specify the name of the person whom it appoints to the arbitration board; or

(b) the two appointees of the parties fail to agree on the appointment of a third member of the arbitration board within the time specified;

the chairman shall, upon the request of a party:

(c) in the case mentioned in clause (a), appoint a member on behalf of the party failing to make an appointment;

(d) in the case mentioned in clause (b), when the members appointed by the parties fail to agree on the appointment of a third member, appoint a third member to be chairman of the arbitration board, or

(e) appoint both the member mentioned in clause (c) and the third member mentioned in clause (d).

-(3) The chairman shall by notice in writing refer the matter in dispute to the arbitration board and shall at the

same time send a copy of the notice under section 19 and of the notice under section 20 to the chairman of the arbitration board.

-(4) Upon the reference to the arbitration board under subsection (3), it shall be conclusively presumed that it has been established in accordance with this Act, and no order shall be made or process entered, and no proceedings shall be taken in any court, to question the establishment of the arbitration board or to review, prohibit, or restrain any of its proceedings.

-(5) Where any vacancy occurs in the membership of an arbitration board before it has made its award, the vacancy may be filled in the manner provided in sections 19, 20 or 21 for the selection of such a member.

22.-(1) The matters in dispute specified in the notices under section 19 and section 20 constitute the terms of reference of the arbitration board, and it shall, after considering the matters in dispute together with any other matter that the arbitration board considers necessarily incidental to the resolution of the matters in dispute, make an award.

-(2) Where, at any time before an award is made, the parties reach agreement on any matter in dispute and enter into a collective agreement in respect thereof, no award so shall be made by the arbitration board in respect

thereof.

23.-(1) Subject to this Act and any regulations made by the board, an arbitration board shall determine its own procedure but shall give full opportunity to the parties to present evidence and make submissions to it, and shall have all the powers set out in section 10 (g) of this Act.

-(2) A decision of a majority of the members of an arbitration board, or failing a majority decision, the decision of the chairman is an award of the board.

24. If it appears to either party that an arbitration board has failed to deal with any matter referred to it such party may, within seven days from the day the award is made, refer the matter back to the arbitration board, and it shall thereupon consider the matter.

25.-(1) An arbitration board may, upon application by both parties, amend, alter or vary any provision of an award where it appears to the arbitration board that the amendment, alteration or variation is warranted.

-(2) The Arbitration Act does not apply to any arbitration under this Act.

CONCILIATION BOARD

26. Where a dispute arises between the parties, either party may, by notice in writing to the chairman, request the establish-

ment of a conciliation board.

27.-(1) Where, in respect of a dispute, either party has requested a conciliation board, the chairman shall establish a board unless it appears to him, after consultation with each of the parties, that the establishment of such a board is unlikely to serve the purpose of assisting the parties in reaching agreement, in which case the chairman shall forthwith notify the parties in writing of his intention not to establish such a board.

-(2) In any case not provided for under subsection (1), the chairman may establish a conciliation board where it appears to him that the establishment of such a board may serve the purpose of assisting the parties in reaching agreement, and that without the establishment of such a board the parties are unlikely to reach agreement, but before establishing such a board the chairman shall notify the parties in writing of his intention to do so.

28.-(1) A conciliation board shall consist of three members appointed in the manner provided in this section.

-(2) When a conciliation board is to be established, the chairman shall, by notice in writing, require each of the parties, within seven days from the receipt of such notice, to appoint one person each to be a member of the conciliation board.

-(3) If either party fails to appoint a member within seven

days from the receipt by it of the notice referred to in subsection (2), the chairman shall appoint such member of the conciliation board.

-(4) The two members appointed under subsection (2) or (3) shall, within five days after the day on which the second of them was appointed, appoint a third person who is ready and willing to act, to be chairman of the conciliation board.

-(5) If the two members appointed under subsection (2) or (3) fail to make such an appointment within five days after the second of them was appointed, the chairman shall forthwith appoint a chairman of the conciliation board and notify the parties in writing that the conciliation board is established.

29. Where any vacancy occurs in the membership of a conciliation board before it has reported its findings and recommendations, the vacancy may be filled in the manner provided in section 28 for the selection of such a member.

30. Forthwith upon the establishment of a conciliation board, the chairman shall deliver to it a statement of the matters on which the board shall report its findings and recommendations, and he may, either before or after the report to him of its findings and recommendations, amend such statement by adding or deleting any matter he deems necessary or advisable in the interest of assisting the parties in reaching agreement.

31.-(1) A conciliation board shall, as soon as possible after receiving the statement referred to in section 30, endeavour to bring about agreement between the parties in relation to the matters set forth in the statement.

-(2) A conciliation board may determine its own procedure, but shall give full opportunity to both parties to present evidence and make representations.

-(3) The chairman of a conciliation board may, after consultation with the other members of the board, fix the times and places of its sittings and shall notify the parties of the times and places so fixed.

-(4) The chairman of a conciliation board and one other member constitute a quorum, but in the absence of a member at any sitting of the board, the other members shall not proceed unless the absent member has been given reasonable notice of the sitting.

-(5) A conciliation board shall have all the powers set out in section 10 (g) of this Act.

-(6) A report of a majority of the members of a conciliation board is the report of the board and shall be in writing and shall be made within fourteen days unless the parties agree to extend the time or unless the time is extended by the chairman.

32. After a conciliation board has reported to the chairman, he may direct it to reconsider and clarify or amplify its report or

any part thereof, or to consider and report on any matter added to such statement, except that in any such case the report of the conciliation board shall be deemed to have been received by the chairman notwithstanding that the reconsidered report or the report on the added matter, as the case may be, has not been received by him.

33. If before a conciliation board makes its report the parties agree in writing to be bound thereby, the report shall bind the parties and shall be given effect to accordingly.

34.-(1) On receipt of the report of a conciliation board, the chairman shall send a copy to the parties and may publish the report if he sees fit.

-(2) If a collective agreement is not concluded within fourteen days after the report has been forwarded by the chairman to the parties then notwithstanding the provisions of any act or any contracts of employment between teachers and school boards, teachers shall be under no further legal obligation to provide services and school boards shall be under no further legal obligation to maintain educational services.

GRIEVANCE PROCEDURE

35.-(1) Unless otherwise provided in a collective agreement either party may at any time by notice in writing to

the other party require that any grievance be resolved by arbitration, such notice to specify the grievance and the name of the person appointed by the party giving the notice to the arbitration board.

-(2) The party receiving the notice shall within five days appoint a member to the board and notify the other party in writing.

-(3) The two members so appointed shall within ten days appoint a third member who shall be chairman.

-(4) Failing any appointment within the times specified either party may apply to the Chief Justice of Saskatchewan and he shall thereupon make such appointment as may be necessary.

-(5) The arbitration board so appointed shall proceed to hear the grievance with all due dispatch and the provisions of sections 23, 24, and 25 of this Act shall apply.

-(6) The arbitration board may at any time obtain the advice of legal counsel.

36.-(1) Unless otherwise provided in a collective agreement and if the grievance is one involving disciplinary action against a teacher the grievance shall not be referred to arbitration until:

(a) The Saskatchewan Teachers' Federation has filed a grievance or complaint in writing with the principal.

(b) If no settlement is reached within five days the matter shall be placed before the superintendent or director of education.

(c) If no settlement is reached with the superintendent or director of education within ten days the grievance shall be filed with the Secretary of the school board and the board shall hear and consider the matter at its next regular meeting.

(d) If no settlement is reached the grievance may proceed to arbitration.

37.-(1) Unless otherwise provided in a collective agreement and if the grievance involves dismissal of a teacher the grievance shall not be referred to arbitration until a complaint in writing has been filed with the school board by The Saskatchewan Teachers' Federation.

-(2) The board shall hear and consider the grievance at its next regular meeting.

38. Unless otherwise provided in a collective agreement and if the grievance involves the interpretation or application or the alleged violation of a collective agreement the grievance shall not be referred to arbitration until a complaint in writing has been filed with the other party and negotiations have failed to produce a settlement within fifteen days thereafter.

39. If a teacher is dismissed for cause the dismissal shall be by notice in writing specifying the reasons for dismissal.

40.-(1) An appeal shall lie from any award of an arbitration board with respect to a grievance to The Teacher Relations Board.

-(2) The appeal shall be taken within fifteen days of the award or within such further time as the chairman shall allow.

-(3) Notice of the appeal shall be filed with The Teacher Relations Board and the chairman shall fix a time for hearing the appeal and notify the parties accordingly.

-(4) Unless otherwise agreed by the parties, the appeal shall be a hearing de novo.

-(5) The decision of The Teacher Relations Board shall be final and no order shall be made or process entered and no proceedings shall be taken in any court whether by way of declaration, injunction, certiorari, prohibition, quo warranto or otherwise to question or review such decision.

41. The Teachers Tenure Act, Sections 237, 238 and 239 of The School Act, and Section 65, 66 and 67 of The Secondary Education Act are repealed effective on a date or dates to be proclaimed by the Lieutenant-Governor in Council.

42. The Teacher Salary Agreements Act is repealed.